

AMENDED IN ASSEMBLY MARCH 29, 2007

CALIFORNIA LEGISLATURE—2007–08 REGULAR SESSION

ASSEMBLY BILL

No. 1572

**Introduced by Assembly Member DeVore
(Coauthors: Assembly Members Benoit and Silva)**

February 23, 2007

An act to amend Section ~~1363.01~~ 1399.72 of the Health and Safety Code, relating to health care ~~coverage~~ *service plans*.

LEGISLATIVE COUNSEL'S DIGEST

AB 1572, as amended, DeVore. Health care ~~coverage; disclosures; service plans; conversion.~~

Existing law, the Knox-Keene Health Care Service Plan Act of 1975, provides for the licensure and regulation of health care service plans by the Department of Managed Health Care. The act requires that a plan intending to convert from nonprofit to for-profit status, submit a conversion proposal to the director and, before approving the conversion, the director is required to find that the proposal sets aside the fair market value of the nonprofit plan and dedicates and transfers it to a tax-exempt charitable organization with a charitable mission and grantmaking function of serving the health care needs of the people of California.

This bill would instead require, that at least 90% of the money expended annually to fulfill the charitable mission and grantmaking function of the tax-exempt charitable organization receiving the set-aside be spent on health care services for Californians, as specified, who are not receiving health care services through a government program.

~~Existing law provides for the regulation of health care service plans by the Department of Managed Health Care. Existing law requires a~~

plan that covers prescription drug benefits to provide specified information to enrollees, including information regarding whether the plan uses a formulary. Under existing law, a plan that covers prescription drug benefits must also provide, upon request, information to members of the public regarding whether a specific drug is on the plan's formulary.

~~This bill would make a technical, nonsubstantive change to those provisions.~~

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~ yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 1399.72 of the Health and Safety Code
2 is amended to read:
3 1399.72. (a) ~~Any~~ A health care service plan that intends to
4 convert from nonprofit to for-profit status, as defined in subdivision
5 (b), shall, prior to the conversion, *submit a conversion proposal*
6 *to the director and secure approval from the director.*
7 (b) For the purposes of this section, a “conversion” or “convert”
8 by a nonprofit health care service plan means the transformation
9 of the plan from nonprofit to for-profit status, as determined by
10 the director.
11 (c) Prior to approving a conversion, the director shall find that
12 the conversion proposal meets all of the following charitable trust
13 requirements:
14 (1) The fair market value of the nonprofit plan is set aside for
15 appropriate charitable purposes. In determining fair market value,
16 the director shall consider, but not be bound by, any market-based
17 information available concerning the plan.
18 (2) The set-aside shall be dedicated and transferred to one or
19 more existing or new tax-exempt charitable organizations operating
20 pursuant to Section 501(c)(3) (26 U.S.C.A. U.S.C. Sec. 501(c)(3))
21 of the federal Internal Revenue Code. The director shall consider
22 requiring that a portion of the set-aside include equity ownership
23 in the plan. Further, the director may authorize the use of a federal
24 Internal Revenue Code Section 501(c)(4) organization (26 U.S.C.A.
25 Sec. 501(c)(4)) *an organization operating pursuant to Section*
26 *501(c)(4) of the Internal Revenue Code (26 U.S.C. Sec. 501(c)(4))*
27 if, in the director's view, it is necessary to ensure effective

1 management and monetization of equity ownership in the plan and
 2 if the plan agrees that the Section 501(c)(4) organization will be
 3 limited exclusively to these functions, that funds generated by the
 4 monetization shall be transferred to the Section 501(c)(3)
 5 organization except to the extent necessary to fund the level of
 6 activity of the Section 501(c)(4) organization as may be necessary
 7 to preserve the organization's tax status, that no funds or other
 8 resources controlled by the Section 501(c)(4) organization shall
 9 be expended for campaign contributions, lobbying, or other
 10 political activities, and that the Section 501(c)(4) organization
 11 shall comply with reporting requirements that are applicable to
 12 Section 501(c)(3) organizations, and that the *Section* 501(c)(4)
 13 organization shall be subject to any other requirements imposed
 14 upon *Section* 501(c)(3) organizations that the director determines
 15 to be appropriate.

16 (3) Each *Section* 501(c)(3) or 501(c)(4) organization receiving
 17 a set-aside, its directors and officers, and its assets including any
 18 plan stock, shall be independent of any influence or control by the
 19 health care service plan and its directors, officers, subsidiaries, or
 20 affiliates.

21 (4) ~~The~~ *At least 90 percent of the money expended annually to*
 22 *fulfill the charitable mission and* ~~grant-making~~ *grantmaking*
 23 *functions of the charitable organization receiving any set-aside*
 24 *shall be dedicated to serving the health care needs of the people*
 25 *of California spent on health care services for citizens who reside*
 26 *in California and who are not receiving health care services*
 27 *through a local, state, or federal program.*

28 (5) Every *Section* 501(c)(3) or 501(c)(4) organization that
 29 receives a set-aside under this section shall have in place
 30 procedures and policies to prohibit conflicts of interest, including
 31 those associated with ~~grant-making~~ *grantmaking* activities that
 32 may benefit the plan, including the directors, officers, subsidiaries,
 33 or affiliates of the plan.

34 (6) Every *Section* 501(c)(3) or 501(c)(4) organization that
 35 receives a set-aside under this section shall demonstrate that its
 36 directors and officers have sufficient experience and judgment to
 37 administer ~~grant-making~~ *grantmaking* and other charitable activities
 38 to serve the state's health care needs.

39 (7) Every *Section* 501(c)(3) or 501(c)(4) organization that
 40 receives a set-aside under this section shall provide the director

1 and the Attorney General with an annual report that includes a
2 detailed description of its ~~grant-making~~ *grantmaking* and other
3 charitable activities related to its use of the set-aside received from
4 the health care service plan. The annual report shall be made
5 available by the director and the Attorney General for public
6 inspection, notwithstanding the California Public Records Act
7 (Chapter 3.5 (commencing with Section 6250) of Division 7 of
8 Title 1 of the Government Code). Each organization shall submit
9 the annual report for its immediately preceding fiscal year within
10 120 days after the close of that fiscal year. When requested by the
11 director or the Attorney General, the organization shall promptly
12 supplement the report to include any additional information that
13 the director or the Attorney General deems necessary to ascertain
14 compliance with this article.

15 (8) The plan has satisfied the requirements of this chapter, and
16 a disciplinary action pursuant to Section 1386 is not warranted
17 against the plan.

18 (d) The plan shall not file any forms or documents required by
19 the Secretary of State in connection with any conversion or
20 restructuring until the plan has received an order of the director
21 approving the conversion or restructuring, or unless authorized to
22 do so by the director.

23 ~~SECTION 1. Section 1363.01 of the Health and Safety Code~~
24 ~~is amended to read:~~

25 ~~1363.01. (a) Every plan that covers prescription drug benefits~~
26 ~~shall provide notice in the evidence of coverage and disclosure~~
27 ~~form to enrollees regarding whether the plan uses a formulary.~~
28 ~~The notice shall be in language that is easily understood and in a~~
29 ~~format that is easy to understand. The notice shall include an~~
30 ~~explanation of what a formulary is, how the plan determines which~~
31 ~~prescription drugs are included or excluded, and how often the~~
32 ~~plan reviews the contents of the formulary.~~

33 ~~(b) Every plan that covers prescription drug benefits shall~~
34 ~~provide to members of the public, upon request, information~~
35 ~~regarding whether a specific drug or drugs are on the plan's~~
36 ~~formulary. Notice of the opportunity to secure this information~~
37 ~~from the plan, including the plan's telephone number for making~~
38 ~~a request of this nature, shall be included in the evidence of~~
39 ~~coverage and disclosure form to enrollees.~~

1 ~~(e) Every plan shall notify enrollees, and members of the public~~
2 ~~who request formulary information, that the presence of a drug on~~
3 ~~the plan's formulary does not guarantee that an enrollee will be~~
4 ~~prescribed that drug by his or her prescribing provider for a~~
5 ~~particular medical condition.~~

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